

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Sebastian Saavedra	Team: Squad #1	CCRB Case #: 201900452	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 01/15/2019 7:30 PM	Location of Incident: Paul Avenue and West 205th Street	Precinct: 52	18 Mo. SOL 7/15/2020	EO SOL 3/1/2021	
Date/Time CV Reported Wed, 01/16/2019 5:56 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Wed, 01/16/2019 5:56 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Scott Walicki	19252	935944	052 PCT
2. POM Omar Carrascotatis	00961	959534	052 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Omar Carrascotatis	Abuse: Police Officer Omar Carrascotatis questioned § 87(2)(b)	
B.POM Scott Walicki	Abuse: Police Officer Scott Walicki questioned § 87(2)(b)	
C.POM Omar Carrascotatis	Abuse: Police Officer Omar Carrascotatis stopped § 87(2)(b)	
D.POM Scott Walicki	Abuse: Police Officer Scott Walicki stopped § 87(2)(b)	
E.POM Scott Walicki	Abuse: Police Officer Scott Walicki threatened to arrest § 87(2)(b)	
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		

Case Summary

On January 16, 2019, § 87(2)(b) filed this complaint with the CCRB via its website.

On January 15, 2019, at approximately 7:30pm, in the vicinity Paul Avenue and West 205th Street in the Bronx, § 87(2)(b) was searching for some objects he dropped on the front passenger's side of his parked car, when he was approached by Police Officer Scott Walicki and Police Officer Omar Carrasco-Tatis, both of the 52nd Precinct. PO Walicki and PO Carrasco-Tatis questioned § 87(2)(b) (**Allegations A and B: Abuse of Authority-** § 87(2)(g)). PO Walicki and PO Carrasco-Tatis then stopped § 87(2)(b) (**Allegations C and D- Abuse of Authority-** § 87(2)(g)). PO Walicki threatened to arrest § 87(2)(b) (**Allegation E: Abuse of Authority-** § 87(2)(g)). § 87(2)(b) was neither arrested nor summonsed.

The investigation obtained footage from PO Walicki's and PO Carrasco-Tatis's BWCs that captured part of the incident (Board Reviews 05 and 12)

Findings and Recommendations

Allegation A- Abuse of Authority: Police Officer Omar Carrasco-Tatis questioned § 87(2)(b)

Allegation B- Abuse of Authority: Police Officer Scott Walicki questioned § 87(2)(b)

Allegation C – Abuse of Authority: Police Officer Omar Carrasco-Tatis stopped § 87(2)(b)

Allegation D – Abuse of Authority: Police Officer Scott Walicki stopped § 87(2)(b)

§ 87(2)(b) testified that he was standing outside the open passenger's side door of his parked car, and bent over to look for something in the footwell of the front passenger seat, when PO Walicki and PO Carrasco-Tatis approached him and asked for his name, identification, and whether he was the owner of the car. § 87(2)(b) refused to provide his ID, and responded only by saying repeatedly to the officers "I'm not bothering you." PO Walicki then told § 87(2)(b) that he could be arrested if he did not produce documentation. § 87(2)(b) eventually provided his license and registration (Board Review 01).

PO Walicki testified that he and PO Carrasco-Tatis were conducting a directed patrol in their vehicle due to a high incidence of car break-ins in the area. Car break-ins in the area had been a consistent condition for approximately two years. During their patrol, they observed § 87(2)(b) crouched on the sidewalk and going through a large bag in the foot area of the front passenger seat of a car. He did not observe § 87(2)(b) doing anything else at the time. PO Walicki and PO Carrasco-Tatis then exited their vehicle and approached § 87(2)(b) and asked for his license and registration to prove that the vehicle belonged to him. PO Walicki and PO Carrasco-Tatis told § 87(2)(b) that there was a high rate of larcenies in the area. § 87(2)(b) refused to provide his documents. PO Walicki asked for § 87(2)(b)'s ID approximately 10 times, after which he provided it, and PO Carrasco-Tatis determined that they matched the stickers on the car. (Board Review 02).

PO Carrasco-Tatis's testimony was largely consistent with that of PO Walicki; he and PO Walicki observed § 87(2)(b) in a crouched position outside the car, rummaging for something in the foot area of the front passenger seat of a car with the door open. As the car door was already open when he first observed § 87(2)(b) he did not observe how § 87(2)(b) gained access to the car. PO Carrasco-Tatis and PO Walicki exited their vehicle, approached § 87(2)(b) told him that there were many car break-ins in the area, and asked for his ID multiple times. § 87(2)(b) eventually provided ID and registration, which PO Carrasco-Tatis found matched the car. PO Carrasco-Tatis also said that he suspected § 87(2)(b) of breaking into the

car due to a high car break-in condition in the area that he had been aware of for approximately two years. Additionally, PO Carrasco-Tatis was suspicious of § 87(2)(b) because he observed him going through a pocket book and that the engine of the car he was crouched next to was not running. PO Carrasco-Tatis was not suspicious of § 87(2)(b) for any other reason, and stated that he did not observe § 87(2)(b) to be in violation of anything (Board Review 03).

Stop Report #STP-2019§ 87(2)(b), prepared in regards to this incident, § 87(2)(g) PO Walicki and PO Carrasco-Tatis observed § 87(2)(b) crouched against the opened front passenger side of a car door while going through a pocketbook. PO Walicki and PO Carrasco-Tatis asked for § 87(2)(b)'s ID, which he initially refused, and provided after several requests. The report states that § 87(2)(b) was approached due to the high volume of car break-ins in the area (Board Review 04).

PO Walicki's BWC footage shows PO Walicki telling § 87(2)(b) we need to see if this is your vehicle" at 19:06:54. At 19: 05:54, PO Carrasco-Tatis tells § 87(2)(b) "Yes or no? Is this your vehicle?" At 19:07:07, PO Carrasco-Tatis tells § 87(2)(b) "You're not free to go.". (Board Review 05).

An officer may ask for explanatory information based on a founded suspicion that criminality is afoot, and is permitted to stop an individual if he or she has a reasonable suspicion that the individual has or is about to commit a crime, People v. De Bour, 40 N.Y. 2d 210 (1976). Innocuous behavior in a high-crime area does not constitute reasonable suspicion, absent other signs of criminality, People v. Fernandez, 87 A.D. 3d 474 (2011). An individual's refusal to provide identification alone will not elevate the level of an encounter, NYPD Patrol Guide, Section 212-11 (Board Reviews 06, 07, and 08).

§ 87(2)(g)

§ 87(2)(g)

Allegation E – Abuse of Authority- Police Officer Scott Walicki threatened to arrest

§ 87(2)(b) testified that, when he refused to provide ID, PO Walicki said he would put him in handcuffs (Board Review 01).

PO Walicki testified that, after requesting § 87(2)(b)'s documents approximately 10 times without receiving them, he told § 87(2)(b) that if he did not provide registration or ID he could be taken into custody, because there would be no way of verifying his ownership of the vehicle (Board Review 02).

PO Carrasco-Tatis testified that he did not recall PO Walicki telling § 87(2)(b) that he could be arrested. He did however, state that § 87(2)(b) could have been brought to the stationhouse to be identified if he continued to refuse to provide his ID. He did not observe § 87(2)(b) to be in violation of anything during this incident (Board Review 03).

In PO Walicki's BWC footage, from 19:06:47 to 19:06:55, PO Walicki tells § 87(2)(b) "Please produce ID," and, "We need to see that this is your vehicle, to which the latter replies, "I'm not doing that." § 87(2)(b) then continues to refuse to provide ID for a few seconds, repeatedly yelling "I'm not bothering you" At 19:07:27, PO Walicki tells § 87(2)(b) "you're not complying with our directions, so I'm gonna place you in handcuffs unless you wanna produce some ID for me. § 87(2)(b) then continues to refuse and say, "I'm not bothering you" for a few seconds. At approximately 19:07:46, § 87(2)(b) produces his ID.

Absent probable cause that the person committed an offense, he or she may not be arrested or removed to a Department facility for further investigation merely because he or she refused to produce identification. NYPD Patrol Guide, Section 212-11, page 9 (Board Review 06).

§ 87(2)(g)
[REDACTED]

§ 87(4-b), § 87(2)(g)
[REDACTED]

[REDACTED]

[REDACTED]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party.
- PO Walicki has been a member-of-service for 14 years and has been a subject in one CCRB complaint and two allegations, neither of which was substantiated. § 87(2)(g)
[REDACTED]
- PO Carrasco-Tatis has been a member-of-service for three years, and has been a subject in two complaints and six allegations, none of which were substantiated. § 87(2)(g)
[REDACTED]

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
 - According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (Board Review 10).
 - As of May 22, 2019, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (Board Review 11).
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Squad No.: 1

Investigator:	_____	_____	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date